Delahunt, Goodlatte And Nadler Reintroduce Legislation To Combat Design Piracy
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WASHINGTON, DC – Today Congressmen Bill Delahunt (D-MA), Bob Goodlatte (R-VA) and Jerrold Nadler (D-NY) introduced the Design Piracy Prohibition Act, bipartisan legislation which provides copyright protections to fashion designs.

“The innovation and ingenuity of America’s businesses will drive our nation’s economic recovery. However, one of our most vibrant industries – the fashion industry – is currently at risk because the copyright laws in the United States, unlike virtually all other industrialized countries, fail to protect fashion designs,” said Delahunt. “It has been estimated that counterfeiting merchandise, as a whole, is responsible for the loss of 750,000 American jobs and our bill, the Design Piracy Prohibition Act, promotes and protects our nation’s entrepreneurs by ensuring a just and fair marketplace at home, and a level playing field abroad. “

Most industrialized nations provide legal protection for fashion designs. However, in the United States – the world’s leader in innovation and creativity – fashion designs are not protected by traditional intellectual property protections. Copyrights are not granted to apparel because articles of clothing, which are both creative and functional, are considered “useful articles,” as opposed to works of art. Design patents are intended to protect ornamental designs, but clothing rarely meets the criteria of patentability. Trademarks only protect brand names and logos, not the clothing itself.

“New York’s fashion industry is a major sector of our national economy and uniquely important in my own district,” said Rep. Nadler. “As befits a critical industry, we should protect designers and merchants who honestly ply their trade and produce billions of dollars in revenue, hundreds of thousands of local jobs, and cultural cachet for New York City and the nation. It is essential that we pass the Design Piracy Prohibition Act and safeguard legitimate designers from being undermined by opportunistic knockoffs. Piracy is extremely harmful to our economy and, especially in the current recession, we must do everything in our power to reward creative enterprise. I’m pleased to join Congressmen Delahunt and Goodlatte on this vital issue.”

“As America’s fashion design industry continues to grow, America’s designers deserve and need the type of legal protections that are already available in other countries,” said Congressman Goodlatte. “I am pleased to introduce the Design Piracy Prohibition Act, which establishes these protections here in the U.S. Fashion design is a $350 billion American industry. It is the only growth area in apparel manufacturing. In addition to the jobs directly related to the manufacturing of apparel, it creates jobs in many sectors: printing, trucking, distribution, advertising, publicity, merchandising, and retail. By protecting a designer’s original work we are also protecting the many jobs that support that design.”

The Design Piracy Prohibition Act (“DPPA”) protects designers by amending the Copyright Act to include protections for fashion designs. In contrast with the 10 to 25-year term of protection afforded by other nations, our bill creates a modest, three-year term of protection for fashion designs. Every design that has been available for sale prior to enactment will be considered by the DPPA to be in the public domain; only unique and original designs from then on would be protected from fashion piracy. Our bill permits the influence of trends by making clear that reproducing a trend does not constitute infringement; creates a free, searchable database maintained by the U.S. Office of Copyrights of all designs for which requests for protection have been filed; establishes damages for infringing a fashion design at the greater of $250,000 or $5 per copy; and imposes penalties on those who seek protection through false representations.

Steven Kolb, Executive Director of the Council of Fashion Designers of America said: “America is the world leader in fashion. U.S. fashion designers are extremely grateful for growing support in the House and Senate for legislation that will protect their designs from the pirates who, with today’s technological capabilities, can make a copy on the other side of the world and make it available in our country before America’s designers can sign a deal and make the garment here. The U.S. fashion industry has been growing steadily and adding jobs to our domestic workforce but they are now feeling the effects of the double challenge they face from the economic downturn and increased piracy, urgent action is needed.”

“Many more young people are excited about the opportunities that America’s leadership in fashion provides, and like me, are trying to build a career here. All too often however, we find our ability to do so is undermined by pirates who, instead of laying out the money we do for research, pattern makers, to mount runway shows, etc, they just copy the end product of all our investments and, by virtue of having a cost free design, sell our design in the market place cheaper than we can. We are encouraged that so many Members of Congress are interested in giving us the same protection other countries provide our counterparts around the world,” said American designer Thakoon Panichgul.

According to United States Customs and Border Protection (CBP), counterfeiting merchandise, as a whole, is responsible for the loss of 750,000 American jobs and American companies lose between $200 and $250 billion in sales because of these counterfeit goods. Some estimates indicate that 5 percent to 8 percent of all goods and merchandise sold worldwide are counterfeit.

The Design Piracy Prohibition Act has been referred to the House Committee on the Judiciary, on which Congressmen Delahunt, Goodlatte and Nadler serve.